

Federal Communications Commission

§ 24.706

Nov. 23, 1998. For the convenience of the user, the superseded text is set forth as follows:

§24.704 Withdrawal, default and disqualification penalties.

(a) When the Commission conducts a simultaneous multiple round auction pursuant to §24.702(a)(1), the Commission will impose penalties on bidders who withdraw high bids during the course of an auction, who default on payments due after an auction closes, or who are disqualified.

(1) *Bid withdrawal prior to close of auction.* A bidder who withdraws a high bid during the course of an auction will be subject to a penalty equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. No withdrawal penalty would be assessed if the subsequent winning bid exceeds the withdrawn bid. This penalty amount will be deducted from any upfront payments or down payments that the withdrawing bidder was deposited with the Commission.

(2) *Default or disqualification after close of auction.* See §1.2104(g)(2) of this chapter.

(3) *Erroneous Bids.* If at any point during an auction an erroneous bid is withdrawn in the same round in which it was submitted, the bid withdrawal payment will be the greater of

(i) The minimum bid increment for that license and round; and

(ii) The standard bid withdrawal payment, as defined in paragraph (a)(1) of this section, calculated as if the bidder had made the minimum accepted bid. If an erroneous bid is withdrawn in the round immediately following the round in which it was submitted, and the auction is in Stage I or Stage II, the withdrawal payment will be the greater of

(A) Two times the minimum bid increment during the round in which the erroneous bid was submitted, and

(B) The standard withdrawal payment, as defined in paragraph (a)(1) of this section, calculated as if the bidder had made a bid one bid increment above the minimum accepted bid. If an erroneous bid is withdrawn two or more rounds following the round in which it was submitted, the bidder will not be eligible for any reduction in the bid withdrawal payment as defined in paragraph (a)(1) of this section. During Stage III of an auction, if an erroneous bid is not withdrawn during the round in which it was submitted, the bidder will not be eligible for any reduction in the bid withdrawal payment as defined in paragraph (a)(1) of this section.

(b) When the Commission conducts sequential oral auctions pursuant to §24.702(a)(2), the Commission may modify the penalties set forth in subsection (a) above to be paid in the event of bid withdrawal, default or disqualification; provided, however, that such

penalties shall not exceed the penalties specified above.

(1) If a bid is withdrawn before the Commission has declared the bidding to be closed for the license bid on, no bid withdrawal penalty will be assessed.

(2) If a bid is withdrawn after the Commission has declared the bidding to be closed for the license bid on, the penalty specified in paragraph (a)(2) of this section will apply.

[59 FR 37604, July 22, 1994, as amended at 61 FR 33868, July 1, 1996; 63 FR 2349, Jan. 15, 1998]

§24.705 Bidding application (FCC Form 175 and 175-S Short-Form).

All applicants to participate in competitive bidding for broadband PCS licenses must submit applications on FCC Forms 175 and 175-S pursuant to the provisions of §§1.2105 of the chapter and 24.813. The Commission will issue a Public Notice announcing the availability of broadband PCS licenses and, in the event that mutually exclusive applications are filed, the date of the auction for those licenses. This Public Notice also will specify the date on or before which applicants intending to participate in a broadband PCS auction must file their applications in order to be eligible for that auction, and it will contain information necessary for completion of the application as well as other important information such as the materials which must accompany the Forms, any filing fee that must accompany the application or any upfront payment that will need to be submitted, and the location where the application must be filed.

EFFECTIVE DATE NOTE: At 63 FR 50799, Sept. 23, 1998, §24.705 was removed, effective Nov. 23, 1998.

§24.706 Submission of upfront payments and down payments.

(a) All auction participants are required to submit an upfront payment in accordance with §1.2106 of this chapter. Any C block applicant that has previously been in default on any Commission licenses or has previously been delinquent on any non-tax debt owed to any Federal agency must submit an upfront payment equal to 50 percent more than that set for each particular license.

(b) Winning bidders in an auction must submit a down payment to the

Commission in accordance with § 1.2107(b) of this chapter and §§ 24.711(a)(2) and 24.716(a)(2).

(c) Each eligible bidder for licenses on frequency Blocks D and E subject to auction shall pay an upfront payment of \$0.06 per MHz per pop for the maximum number of licenses (in terms of MHz-pops) on which it intends to bid pursuant to § 1.2106 of this chapter and procedures specified by Public Notice.

[61 FR 33868, July 1, 1996, as amended at 63 FR 50799, Sept. 23, 1998]

EFFECTIVE DATE NOTE: At 63 FR 50799, Sept. 23, 1998, § 24.706 was amended by revising paragraph (a), effective Nov. 23, 1998. For the convenience of the user, the superseded text is set forth as follows:

§ 24.706 Submission of upfront payments and down payments.

(a) Where the Commission uses simultaneous multiple round auctions or oral sequential auctions, bidders will be required to submit an upfront payment in accordance with § 1.2106 of this chapter, paragraph (c) of this section, and §§ 24.711(a)(1) and 24.716(a)(1).

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§ 24.707 Long-form applications.

Each winning bidder will be required to submit a long-form application on FCC Form 600, as modified, within ten (10) business days after being notified that it is the winning bidder. Applications on FCC Form 600 shall be submitted pursuant to the procedures set forth in subpart I of this part and § 1.2107 (c) and (d) of this chapter and any associated Public Notices. Only auction winners will be eligible to file applications on FCC Form 600 for initial broadband PCS licenses in the event of mutual exclusivity between applicants filing Form 175. Winning bidders need not complete Schedule B to Form 600.

[59 FR 37604, July 22, 1994, as amended at 59 FR 59957, Nov. 21, 1994; 62 FR 660, Jan. 6, 1997]

EFFECTIVE DATE NOTE: At 63 FR 50799, Sept. 23, 1998, § 24.707 was removed, effective Nov. 23, 1998.

§ 24.708 License grant, denial, default, and disqualification.

(a) Except with respect to entities eligible for installment payments (see

§ 24.711), each winning bidder will be required to pay the balance of its winning bid in a lump sum payment within five (5) business days following the award of the license. Grant of the license will be conditioned upon full and timely payment of the winning bid amount.

(b) A bidder who withdraws its bid subsequent to the close of bidding, defaults on a payment due or is disqualified will be subject to the penalties specified in § 1.2109 of this chapter.

§ 24.709 Eligibility for licenses for frequency Blocks C and F.

(a) *General Rule.* (1) No application is acceptable for filing and no license shall be granted for frequency block C or frequency block F, unless the applicant, together with its *affiliates* and persons or entities that hold interests in the applicant and their *affiliates*, have *gross revenues* of less than \$125 million in each of the last two years and *total assets* of less than \$500 million at the time the applicant's short-form application (Form 175) is filed.

(2) The *gross revenues* and *total assets* of the applicant (or licensee), and its *affiliates*, and (except as provided in paragraph (b) of this section) of persons or entities that hold interests in the applicant (or licensee), and their *affiliates*, shall be attributed to the applicant and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for a license for frequency block C or frequency block F under this section.

(3) Any licensee awarded a license pursuant to this section (or pursuant to § 24.839(d)(2)) shall maintain its eligibility until at least five years from the date of initial license grant, except that a licensee's (or other attributable entity's) increased *gross revenues* or increased *total assets* due to *nonattributable equity* investments (i.e., from sources whose *gross revenues* and *total assets* are not considered under paragraph (b) of this section), debt financing, revenue from operations or other investments, business development or expanded service shall not be considered.